

Date: April 15, 2013

Kansas Department of Health and Environment  
Economic Impact Statement

Pursuant to the requirements of K.S.A. 2012 Supp. 77-416, Kansas Department of Health and Environment submits the following economic impact statement concerning amendments to current regulations for family foster homes.

**1. Regulations:**

**Current regulations to be amended:**

K.A.R. 28-4-801. License required.  
K.A.R. 28-4-814. Family life.  
K.A.R. 28-4-816. Transportation.  
K.A.R. 28-4-820. General environmental requirements.  
K.A.R. 28-4-821. Sleeping arrangements.

**2. Brief description of each regulation and what is intended to be accomplished by adoption.**

K.A.R. 28-4-801. License required.  
In subsection (b) the amendment will expand the circumstances under which a license to operate a family foster home is not required.

K.A.R. 28-4-814. Family life.  
Paragraph (g)(1)(F) will be amended to remove the requirement that an original medical consent form be provided for each child in foster care participating in an informal visitation to an extended family member of the foster parent. The amendment will allow for an original or a copy of the medical consent form and each health assessment of the child. Many hospitals and clinics accept copies, faxes, or electronic versions.

K.A.R. 28-4-816. Transportation.  
Subsection (a) will be amended to remove a driver requirement from the list of vehicle requirements. A new subsection (b) will require the driver of any vehicle used to transport a child in foster care to hold a valid driver's license for the type of vehicle used. Subsection (c) will clarify requirements for child safety seats. Renumbered subsection (e) will be amended to give additional options for obtaining parental permission for a child in care to drive, rather than requiring the child to obtain the permission. Renumbered subsection (f) will clarify requirements for a driver age 16 to 18 who is transporting a child in foster care attending middle or junior high school. Renumbered subsection (g) will remove the requirement that only one passenger be in the vehicle when a child in foster care who is in high school is being transported by a driver age 16 to 18. Renumbered subsection (h) will clarify that a child in foster care at least 16 years of age and meeting other requirements may transport his or her own child. The amendment will update statutory references to the Kansas motor vehicle drivers'

license act and remove wording contained in the act itself, thus removing duplication of language already in statute. The amendment will correct two errors in the regulation as promulgated in 2008, related to a cross-reference to another subsection.

**K.A.R. 28-4-820. General environmental requirements.**

Paragraph (d)(5), handrail and guarding for a stairway with 2 or more stairs and a landing, will be amended to apply only to stairways with a drop-off of more than 21 inches from the stairs or landing. Paragraph (d)(6), balusters, will be amended to apply only to a home licensed for children less than 6 years of age. The space between balusters, will be changed to not exceed 4 inches, rather than the current 3 ½ inches. Paragraph (d)(10), doors to bathrooms, will be amended to remove the word “hinged”, thus allowing for solid pocket doors. Paragraph (d)(11), requiring each floor used as living space to have at least 2 means of escape, will be deleted. Paragraphs (d)(12) and (13), requiring smoke detectors and carbon monoxide detectors, will be amended by adding the qualifier “working” to each of these requirements. Subsection (e), will be amended to pertain to objects that could cause injury to children. Subsections (i) and (j) will be amended to clarify requirements for fireplaces, heating appliances, and clothes dryers.

**K.A.R. 28-4-821. Sleeping arrangements.**

Paragraph (b)(4) will be amended to remove the requirement that each bedroom door be hinged. The amendments will change several requirements for sleeping rooms, beds, and cribs, including clarification that they apply only to children in foster care. Paragraph (b)(5) will be amended by deleting language on bedroom windows and doors and adding requirements for two means of escape for each bedroom used for sleeping by a child in foster care. Since all sleeping rooms for children in care will be addressed in the amended paragraph (b)(5), the requirements for basements used for sleeping, paragraph (b)(6), will be deleted. Subsection (c) will be reworded pertaining to privacy for the occupants of all bedrooms. Subsections (d) pertaining to cribs and beds, and (f) pertaining to bunk beds, will be amended to clarify that the requirements pertain only to children in foster care. Subsection (f) will also be reworded for clarity. Subsections (h) and (i), requirements for infants in foster care, will be amended to prohibit soft items in cribs and playpens and add wording concerning the sleeping position for infants, in keeping with safe sleep practices recommended by the American Academy of Pediatrics. Subsection (m) will clarify that the requirements for a child 5 years of age and older sharing a room only apply to a child in foster care. A new subsection (n) will add requirements for a child in foster care under 5 years of age sharing a room with others. Renumbered subsection (p) and a new subsection (q) will clarify the requirements for a child in foster care sleeping in the bedroom of the licensee.

**3. Are these regulations mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?**

Yes \_\_\_\_\_

No     X    

**If yes, please explain.**

**4. Do the proposed regulations exceed the requirements of applicable federal law?**

Yes \_\_\_\_\_

No   X  

**5. Description of Costs:**

**(a) Cost to the agency:**

There is no additional cost to the agency.

**(b) Cost to persons who will bear the costs and those who will be affected (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:**

There is no additional cost to individuals currently licensed as foster parents.

The amendments to K.A.R. 28-4-816, transportation, will clarify the current requirements and reflect changes to the Kansas motor vehicle drivers' license act that came into effect after the original promulgation of this regulation.

The amendments to K.A.R. 28-4-820 and 28-4-821 will clarify requirements for living space, bedroom requirements, and sleeping arrangements pertain only to children in foster care. Following implementation of the regulations in 2008, the department received comments from agencies and foster parents that the new requirements placed a burden on foster families by restricting the use of some areas of living space for household members or children in foster care. The amendments allow the foster family more flexibility in the use of living space and allow them to determine where they or their own children sleep. The state's responsibility is to safeguard each child in out-of-home care through the licensing program. The amendments reflect a balance of the foster family's rights and the state's responsibility to children placed in care.

**(c) Costs to other governmental agencies or units:**

There is no known additional cost.

**6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.**

No less costly or intrusive methods were identified.

**7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.**

The above mentioned regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to K.S.A. 2012 Supp. 77-416.

Yes     **X**    

No                     

**If yes:**

Date contacted and by what means (i.e., letter, FAX, etc.): The three organizations will be contacted at the time the Notice of Hearing is published in the Kansas Register.

**Response and comments received by:**

League of Kansas Municipalities:

Kansas Association of Counties:

Kansas Association of School Boards: